REMARKS

Claims 1 - 7 remain active in this application.
Claim 3 has been amended to add a recitation already
present in claim 7. No new matter has been introduced
into the application. Withdrawal of previous grounds
of rejection is noted with appreciation.

Claims 1 - 7 have been rejected under 35 U.S.C.
§103 as being unpatentable over Dietz et al. This
sole ground of rejection is respectfully traversed
since the Dietz et al. reference relied upon does not
contain all the teachings and/or suggestions the
Examiner attributes to it and the Examiner's statement
of the rejection clearly construes Dietz et al.
through hindsight.

As previously pointed out, the present invention
is directed to facilitating communications which are
complete and sufficient for transfer of information
between a potential employer and a supplier of
potential employees having particular skills and
automating the remainder of the procurement process.
To insure sufficiently complete communications for the
purpose, the present invention, as claimed, is
directed to the procurement of skilled employees
through accessing the skills matching application from
a Requisition/Catalog Web application and developing a
detailed statement of required skills and abilities
through prompting the user for information using a
plurality of screens for all information necessary for
a response which is likely to provide a good match of
skills of a proposed employee with the requirements of
a particular position or project by requiring
completion of a statement of work (SOW) and a skills
detail checklist. Thus a more regimented and
controlled development of a statement of work (SOW) is
provided (e.g. using terminology of the "plurality of
screens" previously negotiated and well-understood by

both the user and the vendor) which is more generally
characteristic of procurement of commodities having
different features. That is, the invention is a
workflow-based tool which allows a user to procure a
certain number of hours of certain levels of certain
skills (and facilitates the procurement and approval
processes, as recited in dependent claims) as distinct
from a work assignment-based tool such as that of
Dietz et al. which is directed to working from an
inventory of workers and procuring services including
particular skills on an individual worker basis. At
the same time, the invention provides additional
reduction of communications and improved vendor
flexibility by selectively providing notice to vendors
in a hierarchical manner of preference of a new or
changed entry into the skills matching application
(but not necessarily providing the entire entry) and
providing for the vendor to retrieve the entry if and
when the vendor desires to do so. By assuring that
adequate information is collected in regard to the
skills needed for a particular position or project
(and which may be made available/obtained at pre-
negotiated prices specific to the skills involved in
the contemplated work rather than the skills possessed
by an individual), the entire skills matching process
is effectively streamlined and expedited while the
accuracy of matching of an individual's skills to the
required skills is improved, largely through the
vendor seeking to supply workers having the skills
which are a good match to the skills required since
the user is essentially agreeing to purchase a certain
amount of certain levels of certain skills.

Dietz et al., on the other hand, is essentially
directed to simply using a computer system and network
as a conduit for all communications in regard to a
non-employee worker supplied by a vendor in order to
better manage the many types of records which must be

kept but without affecting the major portion of the
process of acquiring the services of a non-employee
worker (see column 1, lines 23 - 55) and Dietz et al.
departs from the normal procedures principally in
allowing, in some embodiments, sharing of vendor data
in order to avoid a need to communicate directly with
the vendor or for the vendor to intervene in the
selection process, contrary to the present invention.
Thus, while the system of the invention may have some
superficial similarities to Dietz et al. such as
providing for a vendor response, major differences are
apparent while the Examiner's statement of the
rejection seeks to gloss over or minimize such
differences by construing Dietz et al. through
hindsight where Dietz et al. is often silent or
teaches away from the subject matter claimed.

Specifically, in regard to the claim recitation
of accessing the skills matching application (SMA) of
the invention from a requisition/catalog (REQ/CAT)
application (e.g. containing certain skills at certain
levels which may be purchased for certain prices; all
of which are well-understood by both the user and the
vendor), the Examiner merely suggests that the
computer system of Dietz et al., in general, answers
such a recitation without pointing out any disclosure
of Dietz et al. which teaches or suggests anything
remotely resembling a REQ/CAT application or the
function thereof. In regard to compiling a detailed
statement of required skills, the Examiner relies upon
column 8, lines 51 - 63, which merely indicates that
the requisition of a non-employee worker may be
handled in numerous ways including submission of a
request which "*may* specify a job *category*, a job
description, *a number* of skills...a rate range, etc."
(emphasis added) which is entirely permissive as to
degree of detail and terminology as well as being
directed to the availability of a matching individual,

particularly by the reference to rate range, and does
not even suggest that the request is, in any way,
"detailed". Similarly, column 5, lines 25 - 46,
describes different arrangements suitable for use as
the computer system of a vendor and communication
through "e-mail, facsimile, file transfer protocols
and shared access to network resources" and provides
an example of the communication of a "request" to a
vendor and the vendor's response, but does not teach
or suggest communication to a vendor of an "e-mail
notification notifying the supplier *that a new request
has been entered into the SMA application*" (emphasis
added) as recited in, for example, claim 1, as the
Examiner asserts. Likewise, there is no teaching of
suggestion in that passage of a "means for said
suppliers to *retrieve* and review said detailed
statement..." (emphasis added) as the Examiner asserts
and there is no need to *retrieve* the statement if it
is included in a "request" (as opposed to a
notification that a new request *has been entered into
the skills matching application*) which has already
been transmitted to a vendor. Certainly, the mere
review by the vendor of a transmitted e-mail request
does not answer this claim recitation or support the
Examiner's assertions in regard to the content of
Dietz et al. concerning this feature of the invention.
Accordingly, it is clearly seen that the Examiner's
attributions to Dietz et al. are not supported by the
actual disclosure of Dietz et al. and can only have
been derived through impermissible hindsight.

Additionally, the Examiner admits that Dietz et
al. does not teach or suggest prompting the user
through a series of screens to enter a statement of
work (the Examiner's statement of the rejection is
silent in regard to the recited completion of a skills
detail checklist) but relies on column 6, lines 6 -
24, and column 9, lines 56 - 59, describing a "work

assignment" which can be created by an "engaging
manager" to support a stated conclusion of obviousness
in regard to such subject matter admittedly not taught
or suggested by Dietz et al. However, nothing is
disclosed in Dietz et al. in regard to the use of a
plurality of screens (by which adherence to terms
well-understood by both the user and vendor is
achieved) or, for that matter, any "prompting" at all
in regard to the creation of the work assignment,
which, as pointed out above, Dietz et al. contemplates
as being an entirely permissive and arbitrary degree
of detail.

More importantly, there is no teaching or
suggestion that the work assignment is ever sent to
the vendors or even that it would be desirable to do
so. It is respectfully submitted that some items
suggested for inclusion in the work assignment such as
"a budget for the job" and the use of the work
assignment to limit the authority of the non-employee
worker to perform other tasks unless a new work
assignment is created (column 6, lines 19 - 24) and
circulation thereof for approval (column 6, lines 25 -
28) seem utterly inappropriate for a document or file
to be disclosed to a vendor but, rather, appropriate
for an internal document of the user organization and,
indeed, in Dietz et al., the fact of work assignment
creation and entry thereof into the database 210 of
the user organization is communicated to the
"assignment approver" of the user organization
preferably over an internal LAN ("a telephone call,
voice mail, facsimile, a written memo, etc." (column
6, lines 40 - 41, and column 10, lines 15 - 18) being
mentioned as preferred alternatives) by notification
of the need for approval (as distinct from
notification of an outside vendor of a new entry in a
skills matching application).

In regard to dependent claims 2 and 6, the Examiner asserts that Dietz et al. discloses that the SMA and REQ/CAT applications are web-based; citing column 5, lines 23 - 25, which merely indicate that the organization/user LAN may be linked via a WAN such as the internet to a computer maintained by the vendor. This passage does *not* teach or in any way suggest that SMA or REQ/CAT *applications* are taught or even contemplated by Dietz et al., much less being web-based *applications* running on the computer of either the user/organization or the vendor. Again, the Examiner's statement of the rejection in regard to claims 2 and 6 clearly indicates that the Dietz et al. reference has been construed through impermissible hindsight.

Further, the Examiner admits that Dietz et al. fails to teach or suggest a SMA web site from which suppliers may view request details and submit candidates but suggests that since Dietz et al. discloses limited access of vendors to the networked system (e.g. the user's LAN or WAN) that it would be obvious to do so "for the purpose of streamlining communications". However, it is also respectfully pointed out that while the Examiner has admitted that Dietz et al. does not teach or suggest providing a SMA web site at all, Dietz et al. also does not teach or suggest any "streamlining of communications" such as are achieved by the provision of a SMA web site in accordance with the invention, as claimed. Thus Dietz et al. not only fails to provide any teaching of suggestion of such a modification (which would have no function in Dietz et al. operating in the intended manner as pointed out above), Dietz et al. also fails to provide any motivation for such a modification or lead to an expectation of success in achieving streamlining of vendor communications by the provision of a web-based SMA *application* or a SMA web site. In

short, the Examiner again and even more clearly relies upon impermissible hindsight by referring to a meritorious effect of the present invention which Dietz et al. does not teach, suggest or even contemplate using terminology from the previously submitted remarks. In fact, Dietz et al. provides no evidence of a level of ordinary skill on the art that it in any way relevant to or probative of the question of obviousness of the subject matter of claims 2 or 6.

Similarly, in regard to claims 3 and 7, the Examiner refers to Figures 4A and 4B of Dietz et al. as teaching that the invoking of an approval and procurement process responsive to candidate selection. It is respectfully submitted that these Figures merely show that the approval process is subsequent to worker selection but not that it is in any way *responsive* thereto or, for that matter, that either process is "running on said computer system" or "invoked" as recited in the claims although such recitations are not directly referred to by the Examiner. As discussed above, column 6, lines 25 - 41, of Dietz et al. simply discuss informing and assignment approver of a work assignment, not necessarily complete to include an identification of a selected worker (see column 9, line 56+), having been created and awaiting approval which is apparently done manually and at the convenience of the approval manager rather than a process running on a computer which is invoked in response to candidate selection as the Examiner at least implies. Again, the Examiner has clearly construed the reference through impermissible hindsight while the reference does not, in fact, contain teachings of suggestions which support the conclusion of obviousness asserted by the Examiner.
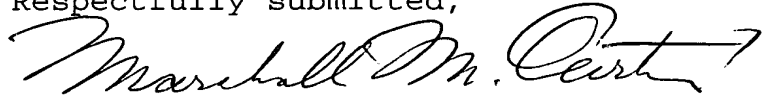
Thus, in summary, by construing the reference through hindsight and ignoring or glossing over explicit recitations of the claims, the Examiner has

failed to make a *prima facie* demonstration of obviousness of any claim in the application based on Dietz et al. The Examiner's reliance upon hindsight is abundantly and repeatedly indicated in the Examiner's statement of the rejection in regard to the respective claims. Therefore, it is respectfully submitted that this sole ground of rejection is in error and it is respectfully requested that the ground of rejection be reconsidered and withdrawn.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No.09-0458 of International Business Machines Corporation (E. Fishkill.

Respectfully submitted,

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